

House File 2440 - Introduced

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A BILL FOR

1 An Act relating to the applicability of the beverage containers
2 control program, including the redemption and handling
3 of beverage containers, providing penalties, making
4 appropriations, and including effective date and transition
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CHANGES TO CURRENT BEVERAGE CONTAINERS CONTROL LAW

Section 1. Section 455C.1, subsections 1 and 6, Code 2022, are amended to read as follows:

1. "*Beverage*" means wine as defined in section 123.3, subsection 54, alcoholic liquor as defined in section 123.3, subsection 5, beer as defined in section 123.3, subsection 7, high alcoholic content beer as defined in section 123.3, subsection 22, canned cocktail as defined in section 123.3, subsection 11, mineral water, soda water, and similar carbonated soft drinks in liquid form and intended for human consumption.

6. "*Dealer agent*" means a person who solicits or picks up empty beverage containers ~~from a dealer~~ for the purpose of returning the empty beverage containers to a distributor or manufacturer.

Sec. 2. Section 455C.1, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer who accepts the return of empty beverage containers from a consumer.

NEW SUBSECTION. 14. "*Redemption service provider*" means a dealer agent or a registered redemption center.

Sec. 3. Section 455C.2, Code 2022, is amended to read as follows:

455C.2 Refund values.

1. A refund value of ~~not less than~~ five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to ~~the~~ a participating dealer or person operating a redemption center and acceptance of the empty beverage container by the participating dealer or person operating a redemption center, the participating dealer or person operating a redemption center shall return the amount of the refund value

1 to the consumer.

2 2. a. In addition to the refund value provided in
 3 subsection 1 of ~~this section~~, a participating dealer, or person
 4 ~~operating a redemption center who redeems empty beverage~~
 5 ~~containers or a dealer agent shall be reimbursed by the~~
 6 ~~distributor required to accept the empty beverage containers an~~
 7 ~~amount which that is one cent per container. A dealer, dealer~~
 8 ~~agent, or person operating a redemption center may compact~~
 9 ~~empty metal beverage containers with the approval of the~~
 10 ~~distributor required to accept the containers. A redemption~~
 11 ~~center shall be reimbursed an amount that is two cents per~~
 12 container.

13 b. When a distributor delivers beverage containers to
 14 a dealer, the dealer shall pay to the distributor as a
 15 contribution to the reimbursement required under paragraph "a"
 16 one-half of one cent per beverage container for each beverage
 17 container delivered.

18 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2022,
 19 are amended to read as follows:

20 1. A participating dealer shall not refuse to accept from a
 21 consumer any empty beverage container of the kind, size, and
 22 brand sold by the participating dealer, or refuse to pay to the
 23 consumer the refund value of a beverage container as provided
 24 under section 455C.2.

25 2. A distributor shall accept and pick up from a
 26 participating dealer served by the distributor or a redemption
 27 center for a dealer served by the distributor at least weekly,
 28 or when the distributor delivers the beverage product if
 29 deliveries are less frequent than weekly, any empty beverage
 30 container of the kind, size, and brand sold by the distributor,
 31 and shall pay to the participating dealer or ~~person operating~~
 32 ~~a redemption center~~ the refund value of a beverage container
 33 and the reimbursement as provided under section 455C.2 within
 34 one week following pickup of the containers or when the
 35 participating dealer or redemption center normally pays the

1 distributor for the deposit on beverage products purchased from
 2 the distributor if less frequent than weekly. A distributor
 3 or employee or agent of a distributor is not in violation
 4 of [this subsection](#) if a redemption center is closed when the
 5 distributor attempts to make a regular delivery or a regular
 6 pickup of empty beverage containers. [This subsection](#) does
 7 not apply to a distributor selling alcoholic liquor to the
 8 alcoholic beverages division of the department of commerce.

9 4. A distributor shall accept from a dealer agent any
 10 empty beverage container of the kind, size, and brand sold by
 11 the distributor and ~~which~~ that was picked up by the dealer
 12 agent ~~from a dealer~~ within the geographic territory served
 13 by the distributor and the distributor shall pay the dealer
 14 agent the refund value of the empty beverage container and the
 15 reimbursement as provided in [section 455C.2](#).

16 Sec. 5. Section 455C.4, Code 2022, is amended to read as
 17 follows:

18 **455C.4 Refusal to accept containers.**

19 1. Except as provided in [section 455C.5, subsection 3](#),
 20 a participating dealer, ~~a person operating a~~ or redemption
 21 center, ~~a distributor or a manufacturer~~ may refuse to accept
 22 any empty beverage container ~~which~~ that does not have stated on
 23 it a refund value as provided under [section 455C.2](#).

24 2. a. A dealer may refuse to accept and to pay the
 25 refund value of any empty beverage container if the ~~place of~~
 26 ~~business of the dealer and the kind and brand of empty beverage~~
 27 ~~containers are included in an order of the department approving~~
 28 ~~a redemption center under~~ [section 455C.6](#) dealer enters a
 29 contract with a redemption service provider who will accept
 30 beverage containers on the dealer's behalf. A dealer may only
 31 enter a contract with a registered redemption center under this
 32 subsection if the dealer's place of business is in a county
 33 with a population of more than thirty thousand and within five
 34 miles of the redemption center or if the dealer's place of
 35 business is in a county with a population of thirty thousand or

1 fewer and within ten miles of the redemption center.

2 b. A dealer who refuses to accept empty beverage containers
3 and enters a contract with a registered redemption center under
4 paragraph "a" shall prominently post on the premises of the
5 dealer's place of business a sign that includes the location
6 and hours of a registered redemption center with which the
7 dealer has contracted under paragraph "a".

8 c. A redemption service provider may require as a term of
9 a contract entered into under paragraph "a" that the dealer
10 shall make space available on the dealer's property for the
11 redemption service provider to collect beverage containers at
12 no cost to the redemption service provider.

13 d. Entering a contract with a dealer agent does not satisfy
14 the contract requirement in paragraph "a" unless the contract
15 requires the dealer agent to return refund value to consumers
16 in the form of cash at the time of return.

17 ~~3. A dealer or a distributor may refuse to accept and to pay~~
18 ~~the refund value of an empty wine or alcoholic liquor container~~
19 ~~which is marked to indicate that it was sold by a state liquor~~
20 ~~store. The alcoholic beverages division shall not reimburse~~
21 ~~a dealer or a distributor the refund value on an empty wine or~~
22 ~~alcoholic liquor container which is marked to indicate that the~~
23 ~~container was sold by a state liquor store.~~

24 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
25 accept and to pay the refund value on an empty alcoholic liquor
26 container from a participating dealer or a redemption center
27 or from a person acting on behalf of or who has received empty
28 alcoholic liquor containers from a participating dealer or a
29 redemption center.

30 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
31 and to pay the refund value and reimbursement as provided in
32 section 455C.2 on any empty beverage container that was picked
33 up by a dealer agent ~~from a dealer~~ outside the geographic
34 territory served by the manufacturer or distributor.

35 Sec. 6. Section 455C.5, subsection 1, Code 2022, is amended

1 to read as follows:

2 1. Each beverage container sold or offered for sale in
3 this state by a dealer shall clearly indicate the refund value
4 of the container by embossing or by a stamp, label, or other
5 method securely affixed to the container, ~~the refund value of~~
6 ~~the container~~. The department shall specify, by rule, the
7 minimum size of the refund value indication on the beverage
8 containers.

9 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2022,
10 are amended to read as follows:

11 1. To facilitate the return of empty beverage containers and
12 to serve dealers of beverages, any person may register with the
13 department pursuant to subsection 2 to establish a redemption
14 center, ~~subject to the approval of the department~~, at which
15 consumers may return empty beverage containers and receive
16 payment of the refund value of such beverage containers.

17 2. a. ~~An application for approval of~~ Written notice of
18 the operation of a redemption center shall be filed with the
19 department. ~~The application notice shall state the name and~~
20 ~~address of the person responsible for the establishment and~~
21 ~~operation of the redemption center, the kind and brand names~~
22 ~~of the beverage containers which will be accepted at the~~
23 ~~redemption center, and the names and addresses of the dealers~~
24 ~~to be served by the redemption center. The application shall~~
25 ~~contain such other information as the director may reasonably~~
26 ~~require~~ include the information listed in paragraph "b".
27 Upon filing a proper notice, the redemption center shall be
28 considered registered for purposes of this chapter.

29 b. A redemption center's notice filed under paragraph "a"
30 shall be considered proper if it includes all of the following:

31 (1) The name, address, and telephone number of the
32 redemption center.

33 (2) The name, address, and telephone number of the person or
34 persons responsible for the establishment and operation of the
35 redemption center.

1 (3) An indication that the redemption center will accept
2 all kinds, sizes, and brands of beverage containers sold by the
3 dealers served by the redemption center.

4 (4) The names and addresses of the distributors whose
5 beverage containers will be redeemed.

6 (5) The hours during which the redemption center will be
7 open.

8 (6) An indication that the redemption center will be in
9 operation and open to the public for the redemption of beverage
10 containers at least twenty hours per week, four hours of which
11 shall be between the hours of 6:00 p.m. and 10:00 p.m. or on
12 Saturday or Sunday, or a combination thereof.

13 5. All ~~approved~~ redemption centers shall meet applicable
14 health standards.

15 Sec. 8. Section 455C.12, subsection 2, Code 2022, is amended
16 to read as follows:

17 2. A distributor who collects or attempts to collect
18 a refund value on an empty beverage container when the
19 distributor has paid the refund value on the container to a
20 participating dealer, redemption center, or consumer is guilty
21 of a fraudulent practice.

22 Sec. 9. Section 455C.12, subsection 3, paragraphs a and b,
23 Code 2022, are amended to read as follows:

24 a. Collects or attempts to collect the refund value on the
25 container a second time, with the knowledge that the refund
26 value has once been paid by the distributor to a participating
27 dealer, redemption center, or consumer.

28 b. Manufactures, sells, possesses, or applies a false or
29 counterfeit label or indication ~~which~~ that shows or purports to
30 show a refund value for a beverage container, with intent to
31 use the false or counterfeit label or indication.

32 Sec. 10. Section 455C.12, Code 2022, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 6. A person who violates any provision of
35 this chapter, or any rule, permit, or order adopted or issued

1 under this chapter, shall be subject to a civil penalty not
 2 to exceed two thousand five hundred dollars for each day of
 3 the violation. The department shall adopt rules establishing
 4 a schedule of civil penalties based on the severity of the
 5 violation. Any civil penalty collected under this chapter
 6 shall be deposited in the bottle bill enforcement fund
 7 established in section 455C.12D.

8 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
 9 **— compliance orders.**

10 1. The director may issue any order necessary to secure
 11 compliance with or prevent a violation of the provisions of
 12 this chapter or any rule adopted or permit or order issued
 13 pursuant to this chapter. Any order issued pursuant to this
 14 section may impose a civil penalty authorized pursuant to
 15 section 455C.12, subsection 6, for a violation of the order,
 16 to be collected administratively by the department. The
 17 person to whom the compliance order is issued may cause to be
 18 commenced a contested case within the meaning of chapter 17A by
 19 filing within thirty days a notice of appeal to the director.
 20 Following a contested case hearing and a proposed decision
 21 issued by the department, the commission may affirm, modify, or
 22 vacate the proposed decision.

23 2. If a person continues an alleged violation during the
 24 appeals process and the commission affirms that the person has
 25 committed a violation, the department may assess penalties for
 26 each day the violation continued through the appeals process.

27 Sec. 12. NEW SECTION. **455C.12B Judicial review.**

28 Judicial review of any final order or other final action of
 29 the commission or director may be sought in accordance with the
 30 terms of chapter 17A. Notwithstanding the terms of chapter
 31 17A, petitions for judicial review may be filed in the district
 32 court of the county in which the alleged offense was committed.

33 Sec. 13. NEW SECTION. **455C.12C Civil actions for compliance**
 34 **— penalties.**

35 The attorney general, on request of the department, shall

1 institute any legal proceedings necessary to obtain compliance
2 with an order of the commission or the director, including
3 proceedings for a temporary injunction, or prosecuting any
4 person for a violation of the provisions of this chapter or
5 any rules adopted or permit or order issued pursuant to this
6 chapter.

7 Sec. 14. NEW SECTION. **455C.12D Bottle bill enforcement**
8 **fund.**

9 A bottle bill enforcement fund is established in the state
10 treasury under the control of the department. The fund shall
11 consist of moneys deposited in the fund pursuant to section
12 455C.12, subsection 6, and any other moneys appropriated to or
13 deposited in the fund. Moneys in the fund are appropriated
14 to the department for purposes of administering and enforcing
15 this chapter. Notwithstanding section 8.33, moneys in the
16 fund that remain unencumbered or unobligated at the close of
17 a fiscal year shall not revert but shall remain available for
18 expenditure for the purposes designated. Notwithstanding
19 section 12C.7, subsection 2, interest or earnings on moneys in
20 the fund shall be credited to the fund.

21 Sec. 15. Section 455C.13, Code 2022, is amended to read as
22 follows:

23 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
24 **authorized.**

25 1. A distributor, dealer, or redemption center may enter
26 into a contract or agreement with any other distributor,
27 manufacturer, or person for the purpose of collecting or paying
28 ~~the refund value on, or disposing of,~~ beverage containers as
29 provided in this chapter.

30 2. For purposes of this chapter, any contracts entered into
31 pursuant to this section for the collection or disposal of
32 empty beverage containers shall not be deemed to interfere with
33 the refund value pursuant to section 455C.2.

34 Sec. 16. Section 455C.14, subsection 1, Code 2022, is
35 amended to read as follows:

1 1. If the refund value indication required under section
 2 455C.5 on an empty nonrefillable metal beverage container
 3 is readable but the redemption of the container is lawfully
 4 refused by a participating dealer or ~~person operating~~ a
 5 redemption center under other sections of this chapter or
 6 rules adopted pursuant to these sections, the container
 7 shall be accepted and the refund value paid to a consumer
 8 as provided in this section. Each beer distributor selling
 9 nonrefillable metal beverage containers in this state shall
 10 provide individually or collectively by contract or agreement
 11 with a dealer, ~~person operating~~ a redemption center, or another
 12 person, at least one facility in the county seat of each county
 13 where refused empty nonrefillable metal beverage containers
 14 having a readable refund value indication as required by
 15 this chapter are accepted and redeemed. In cities having a
 16 population of twenty-five thousand or more, the number of the
 17 facilities provided shall be one for each twenty-five thousand
 18 population or a fractional part of that population.

19 Sec. 17. Section 455C.16, Code 2022, is amended to read as
 20 follows:

21 **455C.16 Beverage containers — disposal at sanitary landfill**
 22 **prohibited.**

23 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
 24 containers ~~by a dealer, distributor, or manufacturer, or~~
 25 ~~person operating a redemption center, in a sanitary landfill,~~
 26 ~~is prohibited.~~ Beginning September 1, 1992, including the
 27 final disposal of beverage containers that used to contain
 28 alcoholic liquor as defined in section 123.3, subsection 5,
 29 by a participating dealer, distributor, ~~or~~ manufacturer, or
 30 ~~person operating a redemption center in a sanitary landfill,~~
 31 is prohibited.

32 DIVISION II

33 REPEAL OF CURRENT BEVERAGE CONTAINERS CONTROL LAW

34 Sec. 18. Section 123.24, subsection 2, paragraph d, Code
 35 2022, is amended by striking the paragraph.

1 Sec. 19. Section 123.26, Code 2022, is amended to read as
2 follows:

3 **123.26 Restrictions on sales — seals — labeling.**

4 Alcoholic liquor shall not be sold by a class "E" liquor
5 control licensee except in a sealed container with identifying
6 markers as prescribed by the administrator and affixed in the
7 manner prescribed by the administrator, and no such container
8 shall be opened upon the premises of a state warehouse. The
9 division shall ~~cooperate with the department of natural~~
10 ~~resources so~~ ensure that only one identifying marker or mark is
11 needed to satisfy the requirements of [this section](#) and section
12 ~~455C.5~~ [123B.4](#), subsection 1. Possession of alcoholic liquors
13 ~~which~~ that do not carry the prescribed identifying markers is a
14 violation of [this chapter](#) except as provided in [section 123.22](#).

15 Sec. 20. Section 123.187, subsection 3, paragraph e, Code
16 2022, is amended by striking the paragraph.

17 Sec. 21. Section 423.6, subsection 3, paragraph a, Code
18 2022, is amended to read as follows:

19 a. Any tangible personal property including containers
20 for which it is intended shall, by means of fabrication,
21 compounding, manufacturing, or germination, become an integral
22 part of other tangible personal property intended to be sold
23 ultimately at retail, and containers used in the collection,
24 recovery, or return of empty beverage containers subject to
25 chapter ~~455C~~ [123B](#).

26 Sec. 22. Section 455A.4, subsection 1, paragraph b, Code
27 2022, is amended to read as follows:

28 b. Provide overall supervision, direction, and coordination
29 of functions to be administered by the administrators under
30 chapters 321G, [321I](#), [455B](#), ~~455C~~, [456A](#), [456B](#), [457A](#), [458A](#), [459](#),
31 [459A](#), [459B](#), [461A](#), [462A](#), [462B](#), [464A](#), [465C](#), [473](#), [481A](#), [481B](#),
32 [483A](#), [484A](#), and [484B](#).

33 Sec. 23. Section 455A.6, subsection 6, paragraphs a, b, and
34 d, Code 2022, are amended to read as follows:

35 a. Establish policy for the department and adopt rules,

1 pursuant to chapter 17A, necessary to provide for the effective
2 administration of chapter 455B, ~~455C~~, or 459.

3 **b.** Hear appeals in contested cases pursuant to chapter 17A
4 on matters relating to actions taken by the director under
5 chapter ~~455C~~, 458A, 464B, or 473.

6 **d.** Approve the budget request prepared by the director
7 for the programs authorized by chapters 455B, ~~455C~~, 455E,
8 455F, 455H, and 459, subchapters II and III. The commission
9 shall approve the budget request prepared by the director for
10 programs subject to the rulemaking authority of the commission.
11 The commission may increase, decrease, or strike any item
12 within the department budget request for the specified programs
13 before granting approval.

14 Sec. 24. Section 455B.313, subsection 1, Code 2022, is
15 amended to read as follows:

16 1. A distributor ~~as defined in section 455C.1, subsection~~
17 ~~9~~, shall not sell or offer to sell any beverage container
18 if the beverage container is connected to another beverage
19 container by a device constructed of a material ~~which~~ that is
20 not biodegradable or photodegradable.

21 Sec. 25. Section 455B.313, Code 2022, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 3. For purposes of this section,
24 "*distributor*" means any person who engages in the sale of
25 beverages in beverage containers to a dealer in this state,
26 as those terms are defined in section 123B.1, including any
27 manufacturer who engages in such sales.

28 Sec. 26. REPEAL. Chapter 455C, Code 2022, is repealed.

29 Sec. 27. TRANSITION PROVISIONS. Upon repeal of chapter
30 455C and the creation of the bottle bill deposit fund pursuant
31 to section 123B.11, as enacted by this Act, all moneys in the
32 bottle bill enforcement fund created in section 455C.12D, as
33 enacted by this Act, are transferred to the alcoholic beverages
34 division for deposit in the bottle bill deposit fund. Any
35 moneys credited to the bottle bill enforcement fund on and

1 after January 1, 2024, are transferred to the division for
2 deposit in the bottle bill deposit fund.

3 Sec. 28. EFFECTIVE DATE. This division of this Act takes
4 effect January 1, 2024.

5 DIVISION III

6 NEW BEVERAGE CONTAINERS CONTROL LAW

7 Sec. 29. NEW SECTION. 123B.1 Definitions.

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. a. "*Beverage*" means any of the following:

11 (1) Wine as defined in section 123.3, subsection 54.

12 (2) Alcoholic liquor as defined in section 123.3,
13 subsection 5.

14 (3) Beer as defined in section 123.3, subsection 7.

15 (4) High alcoholic content beer as defined in section 123.3,
16 subsection 22.

17 (5) Canned cocktail as defined in section 123.3, subsection
18 11.

19 (6) Mineral water, soda water, and similar carbonated soft
20 drinks.

21 (7) Any liquid identified through the use of letters,
22 words, or symbols on its product label as a type of water,
23 including any flavored water or nutritionally enhanced water,
24 in a container greater than or equal to four fluid ounces and
25 less than three liters.

26 (8) Tea or coffee drinks, regardless of dairy-derived
27 content, in a container greater than or equal to four fluid
28 ounces and less than three liters.

29 (9) Juice derived from one or more fruits or vegetables that
30 is intended for direct human consumption and not as a base or
31 additive to any beverage or food, in a container greater than
32 or equal to four fluid ounces and less than three liters.

33 (10) Sports drinks, which are soft drinks designed or
34 marketed for consumption in conjunction with sporting activity
35 or strenuous exercise, and which typically contain electrolytes

1 such as sodium, potassium, and chloride, and a high percentage
2 of sugar to restore energy, in a container greater than or
3 equal to four fluid ounces and less than three liters.

4 (11) Any other liquid that is intended for human consumption
5 and is in a container greater than or equal to four fluid
6 ounces and less than three liters.

7 *b.* For purposes of this chapter, the term "*beverage*"
8 excludes all of the following:

9 (1) A liquid that is a syrup, in a concentrated form,
10 or typically added as a minor flavoring ingredient in food
11 or drink, including but not limited to extracts, cooking
12 additives, sauces, or condiments.

13 (2) A liquid that is a drug, medical food, or infant formula
14 as defined by the federal Food, Drug, and Cosmetic Act, 21
15 U.S.C. §301 et seq.

16 (3) A liquid that is designed and consumed only as a
17 dietary supplement as defined in the Dietary Supplement Health
18 and Education Act of 1994, Pub. L. No. 103-417, and not as a
19 beverage.

20 (4) Instant drink powders.

21 (5) Milk, or any product marketed as a plant-based milk, and
22 all other dairy-derived products, except tea or coffee drinks
23 included in paragraph "*a*", subparagraph (8).

24 2. "*Beverage container*" means any sealed glass, plastic,
25 or metal bottle, can, jar, or carton containing a beverage.
26 "*Beverage container*" does not include foil pouches or drink
27 boxes.

28 3. "*Commission*" means the alcoholic beverages commission
29 established in chapter 123.

30 4. "*Consumer*" means any person who purchases a beverage in a
31 beverage container for use or consumption.

32 5. "*Dealer*" means any person who engages in the sale of
33 beverages in beverage containers to a consumer.

34 6. "*Division*" means the alcoholic beverages division of the
35 department of commerce established in chapter 123.

1 7. "*Redemption center*" means a business that provides one or
2 more facilities at which consumers may return empty beverage
3 containers and receive payment for the refund value of the
4 empty beverage containers.

5 Sec. 30. NEW SECTION. 123B.2 Refund values — recycling
6 — reimbursement.

7 1. a. A refund value of five cents shall be paid by a
8 consumer to a dealer on each beverage container sold in this
9 state by the dealer for consumption off the premises.

10 b. On a monthly basis, a dealer shall submit to the
11 department of revenue, in a form and manner determined by
12 the department, receipts indicating the number of beverage
13 containers sold by the dealer and the five-cent refund value
14 collected for each beverage container sold by the dealer
15 pursuant to paragraph "a". The department of revenue shall
16 credit monthly to the treasurer of state for deposit in the
17 bottle bill deposit fund established in section 123B.11 the
18 refund value collected from dealers under this paragraph.

19 2. a. When a manufacturer transfers beverage containers to
20 a distributor, the manufacturer shall pay to the distributor
21 one-half of one cent per beverage container for each beverage
22 container transferred.

23 b. When a distributor delivers beverage containers to a
24 dealer, the dealer shall pay to the distributor one-half of
25 one cent per beverage container for each beverage container
26 delivered.

27 c. Within fourteen days of providing an invoice to a dealer
28 for beverage containers delivered to the dealer, a distributor
29 shall submit to the department of revenue, in a form and
30 manner determined by the department, receipts indicating the
31 number of beverage containers delivered to the dealer by the
32 distributor and payment in an amount equal to one and one-half
33 cents for each beverage container delivered to the dealer. The
34 department of revenue shall credit monthly to the treasurer of
35 state for deposit in the bottle bill deposit fund established

1 in section 123B.11 the moneys collected from a distributor
2 under this paragraph.

3 3. A consumer may only redeem the refund value by returning
4 a beverage container to a registered redemption center
5 facility. Upon return of the empty beverage container, upon
6 which a refund value has been paid, to a registered redemption
7 center facility and acceptance of the empty beverage container
8 by the redemption center, the redemption center shall pay the
9 amount of the refund value to the consumer within ten days.

10 4. A redemption center shall dispose of beverage containers
11 by transporting or causing the transport of the beverage
12 containers to a recycling site.

13 5. On a monthly basis, a redemption center shall be
14 reimbursed by the division from the bottle bill deposit fund
15 established in section 123B.11 the amount of refund value that
16 the redemption center has paid to consumers and the handling
17 fee. The division shall establish the handling fee by rule
18 in an amount that is three cents per beverage container,
19 except that the handling fee shall be one cent per beverage
20 container for a redemption center that does not provide refund
21 value to consumers in the form of cash at the time of return.
22 The division may establish accuracy standards to account for
23 discrepancies in the weight of recycled material and the number
24 of beverage containers the redemption center claims to have
25 been recycled.

26 Sec. 31. NEW SECTION. 123B.3 Refusal to accept containers.

27 A redemption center may refuse to accept any empty beverage
28 container that does not have stated on it a refund value as
29 provided under section 123B.4.

30 Sec. 32. NEW SECTION. 123B.4 Refund value stated on
31 container — exceptions.

32 1. Each beverage container sold or offered for sale in
33 this state by a dealer shall clearly indicate the refund
34 value of the container by embossing or by a stamp, label, or
35 other method securely affixed to the container. The division

1 shall specify, by rule, the minimum size of the refund value
2 indication on the beverage containers and require registration
3 of the universal product code for each beverage container in a
4 format required by the division.

5 2. A person, except a distributor, shall not import
6 into this state a beverage container that does not have
7 securely affixed to the container the refund value indication.
8 This subsection does not apply under any of the following
9 circumstances:

10 a. For beverage containers containing alcoholic liquor as
11 defined in section 123.3, subsection 5, the total capacity of
12 the containers is not more than one quart or, in the case of
13 alcoholic liquor personally obtained outside the United States,
14 one gallon.

15 b. For beverage containers containing beer as defined
16 in section 123.3, subsection 7, the total capacity of the
17 containers is not more than two hundred eighty-eight fluid
18 ounces.

19 c. For all other beverage containers, the total capacity of
20 the containers is not more than five hundred seventy-six fluid
21 ounces.

22 3. Subsections 1 and 2 do not apply to a refillable glass
23 beverage container that has a brand name permanently marked
24 on it and that has a refund value of five cents, to any other
25 refillable beverage container that has a refund value of five
26 cents and that is exempted by rules adopted by the commission,
27 or to a beverage container sold aboard a commercial airliner or
28 passenger train for consumption on the premises.

29 Sec. 33. NEW SECTION. 123B.5 **Redemption centers.**

30 1. To facilitate the return of empty beverage containers,
31 any person may register with the division to establish a
32 redemption center facility at which consumers may return empty
33 beverage containers and receive payment of the refund value of
34 such beverage containers.

35 2. a. Written notice of the operation of a redemption

1 center facility shall be filed with the division. The notice
2 shall include the information listed in paragraph "b". Upon
3 filing a proper notice, the redemption center facility shall be
4 considered registered for purposes of this chapter.

5 **b.** A notice filed under paragraph "a" shall be considered
6 proper if it includes all of the following:

7 (1) The name, address, and telephone number of the
8 redemption center facility.

9 (2) The name, address, and telephone number of the person or
10 persons responsible for the establishment and operation of the
11 redemption center facility.

12 (3) An indication that the redemption center facility will
13 accept all kinds, sizes, and brands of beverage containers
14 sold by all dealers within five miles of the redemption center
15 facility if the redemption center facility is in a county
16 with a population of more than thirty thousand or sold by all
17 dealers within ten miles of the redemption center facility if
18 the redemption center facility is in a county with a population
19 of thirty thousand or fewer.

20 (4) The names and addresses of the distributors whose
21 beverage containers will be redeemed.

22 (5) The hours during which the redemption center will be
23 open.

24 (6) An indication that the redemption center facility will
25 be in operation and open to the public for the redemption of
26 beverage containers at least twenty hours per week, four hours
27 of which shall be between the hours of 6:00 p.m. and 10:00 p.m.
28 or on Saturday or Sunday, or a combination thereof.

29 **Sec. 34. NEW SECTION. 123B.6 Rules.**

30 The commission shall adopt, upon recommendation of the
31 division, rules necessary to carry out the provisions of this
32 chapter, subject to the provisions of chapter 17A.

33 **Sec. 35. NEW SECTION. 123B.7 Penalties.**

34 1. Except as provided in subsection 2, any person violating
35 the provisions of section 123B.2 or 123B.4, or a rule adopted

1 under this chapter, shall be guilty of a simple misdemeanor.

2 2. Any person who does any of the following acts is guilty
3 of a fraudulent practice under chapter 714:

4 a. Collects or attempts to collect the refund value on a
5 beverage container a second time, with the knowledge that the
6 refund value has once been paid by the redemption center to a
7 consumer.

8 b. Manufactures, sells, possesses, or applies a false or
9 counterfeit label or indication that shows or purports to show
10 a refund value for a beverage container, with intent to use the
11 false or counterfeit label or indication.

12 c. Collects or attempts to collect a refund value on
13 a container with the use of a false or counterfeit label
14 or indication showing a refund value, knowing the label or
15 indication to be false or counterfeit.

16 d. Intentionally submits to the division a request for
17 reimbursement of refund value that does not accurately reflect
18 the number of beverage containers collected and recycled by a
19 redemption center for the period that the redemption center
20 seeks reimbursement.

21 3. As used in this section, "*a false or counterfeit label*
22 *or indication*" means a label or indication purporting to show
23 a valid refund value that has not been initially applied as
24 authorized by a distributor.

25 4. Subsection 2, paragraph "a", does not apply to empty
26 beverage containers that are intended to be refillable
27 and are in a standard of condition to be refillable by the
28 manufacturer, notwithstanding any standard for sanitization.

29 5. A person who violates any provision of this chapter
30 shall be subject to a civil penalty that shall be established,
31 assessed, and collected by the division by rule, but shall not
32 exceed two thousand dollars per violation, except as provided
33 in section 123B.10. Any civil penalty collected under this
34 chapter shall be deposited in the general fund of the state.

35 Sec. 36. NEW SECTION. 123B.8 Administrative enforcement —

1 **compliance orders.**

2 1. The administrator of the division may issue any order
3 necessary to secure compliance with or prevent a violation of
4 the provisions of this chapter or any rule adopted or permit
5 or order issued pursuant to this chapter. The person to whom
6 the compliance order is issued may cause to be commenced a
7 contested case within the meaning of chapter 17A by filing
8 within thirty days a notice of appeal to the commission. On
9 appeal, the commission may affirm, modify, or vacate the order
10 of the administrator of the division.

11 2. If a person continues an alleged violation during the
12 appeals process and the commission affirms that the person has
13 committed a violation, the division may assess penalties for
14 each day the violation continued through the appeals process.

15 **Sec. 37. NEW SECTION. 123B.9 Judicial review.**

16 Judicial review of any order or other action of the
17 commission or administrator of the division may be sought in
18 accordance with the terms of chapter 17A. Notwithstanding the
19 terms of chapter 17A, petitions for judicial review may be
20 filed in the district court of the county in which the alleged
21 offense was committed.

22 **Sec. 38. NEW SECTION. 123B.10 Civil actions for compliance**
23 **— penalties.**

24 1. The attorney general, on request of the division, shall
25 institute any legal proceedings necessary to obtain compliance
26 with an order of the commission or the administrator of the
27 division, including proceedings for a temporary injunction,
28 or prosecuting any person for a violation of an order of
29 the commission or the administrator of the division or the
30 provisions of this chapter or any rules adopted or permit or
31 order issued pursuant to this chapter.

32 2. Any person who violates an order issued pursuant to
33 section 123B.8 shall be subject to a civil penalty, not to
34 exceed two thousand five hundred dollars for each day of such
35 violation.

1 Sec. 39. NEW SECTION. 123B.11 Refund value payment program
2 — fund created.

3 1. The division shall establish and administer a refund
4 value payment program. The purpose of the program shall be
5 to administer payments of refund value and handling fees to
6 redemption centers after the redemption centers accept empty
7 beverage containers from consumers. The program shall be
8 administered in accordance with rules adopted by the commission
9 pursuant to chapter 17A.

10 2. A bottle bill deposit fund is established in the state
11 treasury under the control of the division. The fund shall
12 consist of moneys deposited in the fund pursuant to section
13 123B.2 and any other moneys appropriated to or deposited in
14 the fund. Moneys in the fund are appropriated to the division
15 for purposes designated in subsection 4. Notwithstanding
16 section 8.33, moneys in the fund that remain unencumbered or
17 unobligated at the close of a fiscal year shall not revert
18 but shall remain available for expenditure for the purposes
19 designated. Notwithstanding section 12C.7, subsection 2,
20 interest or earnings on moneys in the fund shall be credited
21 to the fund.

22 3. A bottle bill cash reserve account is established
23 within the bottle bill deposit fund. Moneys in the bottle
24 bill deposit fund on July 1, 2025, shall be deposited in the
25 account. The division shall use moneys in the account in the
26 event that the other moneys in the bottle bill deposit fund
27 are insufficient to issue reimbursement and handling fees
28 to redemption centers. At the end of each fiscal year, the
29 account shall be replenished to the original amount deposited
30 on July 1, 2025, from the other moneys in the bottle bill
31 deposit fund if such other moneys are available.

32 4. Moneys in the fund shall be used by the division for all
33 of the following purposes:

34 a. Issuing reimbursement of refund value to a redemption
35 center after the redemption center accepts empty beverage

1 containers from and pays the refund value to a consumer.

2 *b.* Issuing the handling fee to a redemption center for each
3 beverage container that a redemption center accepts from a
4 consumer.

5 *c.* Covering administrative costs to administer the refund
6 value payment program in an amount determined by the commission
7 by rule.

8 *d.* Providing grants to expand redemption capacity in
9 underserved areas.

10 *e.* Providing grants to nonprofit organizations to engage in
11 litter collection in public areas.

12 *f.* Providing reimbursement for actual and necessary expenses
13 incurred by members of the committee established in section
14 123B.12 in the performance of their duties.

15 *g.* Replenishing the bottle bill cash reserve account when
16 necessary.

17 Sec. 40. NEW SECTION. 123B.12 **Bottle bill advisory**
18 **committee.**

19 1. The division shall establish a bottle bill advisory
20 committee. The division shall determine by rule how many
21 members shall serve on the committee and the length of terms
22 for the members. The committee shall include at least one
23 member involved in the manufacturing of beverages, one member
24 involved in the distribution of beverage containers, one
25 member involved in the sale of beverage containers, one member
26 involved in the redemption of beverage containers, one member
27 involved in the recycling of beverage containers, and one
28 member representing consumer interests.

29 2. The members of the committee shall be reimbursed for
30 actual and necessary expenses incurred in the performance of
31 their duties. Expenses shall be paid by the division from the
32 bottle bill deposit fund created in section 123B.11.

33 3. The committee shall meet at least once each year to
34 review the status of the beverage containers control law
35 as provided in this chapter. The committee shall submit

1 any recommended changes to the division and to the general
2 assembly.

3 Sec. 41. NEW SECTION. 123B.13 Auditing.

4 The auditor of state may establish rules to allow for
5 periodic auditing of entities receiving moneys under section
6 123B.11, subsection 4.

7 Sec. 42. NEW SECTION. 455D.9B Disposal of beverage
8 containers at sanitary landfill prohibited.

9 The final disposal of beverage containers, as defined in
10 section 123B.1, including the final disposal of beverage
11 containers that used to contain alcoholic liquor as defined in
12 section 123.3, subsection 5, by a redemption center, as defined
13 in section 123B.1, in a sanitary landfill is prohibited.

14 Sec. 43. EFFECTIVE DATE. This division of this Act takes
15 effect January 1, 2024.

16	EXPLANATION
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17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 Under current law, a consumer may return an empty beverage
20 container upon which a refund value has been paid to a dealer
21 or a redemption center. When a distributor collects empty
22 beverage containers from a dealer, dealer agent, or redemption
23 center, the distributor reimburses the dealer, dealer agent, or
24 redemption center the refund value plus a 1-cent handling fee
25 for each empty beverage container. Current law also allows any
26 person to establish a redemption center that serves a dealer if
27 it is approved by the department of natural resources (DNR).
28 Any person can also establish an unapproved redemption center.

DIVISION I. This bill increases the handling fee for redemption centers to 2 cents per beverage container from the effective date of this division of the bill through December 31, 2023. During that time, the bill requires a dealer to pay one-half of 1 cent per beverage container to the distributor for each beverage container delivered to the dealer as a contribution to the handling fee.

1 The bill expands the definition of "beverage" to include
2 high alcoholic content beer and canned cocktails. The bill
3 amends the definition of "dealer agent" so that a dealer
4 agent is not limited to soliciting or picking up empty
5 beverage containers from a dealer. The bill defines the term
6 "redemption service provider", which includes a registered
7 redemption center or a dealer agent. Under the bill, a dealer
8 may choose to not accept beverage containers if the dealer
9 enters a contract with a redemption service provider who will
10 accept beverage containers on the dealer's behalf. A dealer
11 may only enter such a contract with a registered redemption
12 center for this purpose if the dealer's place of business is
13 in a county with a population of more than 30,000 and within
14 5 miles of the redemption center or if the dealer's place of
15 business is in a county with a population of 30,000 or fewer
16 and within 10 miles of the redemption center. The dealer is
17 required to prominently post on the premises of the dealer's
18 place of business a sign that includes the location and hours
19 of a registered redemption center with which the dealer has
20 contracted. A redemption service provider may require as a
21 term of a contract with a dealer that the dealer shall make
22 space available on the dealer's property for the redemption
23 service provider to collect beverage containers at no cost to
24 the redemption service provider. A contract between a dealer
25 and a dealer agent will not relieve a dealer of its duty to
26 accept beverage containers from consumers unless the contract
27 requires the dealer agent to return refund value to consumers
28 in the form of cash at the time of return.

29 The bill allows a person to register to establish a
30 redemption center by filing proper notice with DNR. The bill
31 provides requirements that a person must satisfy to properly
32 file notice of operation of a redemption center.

33 The bill creates civil enforcement procedures and penalties
34 for a violation of the provisions of Code chapter 455C,
35 including a civil penalty of up to \$2,500 for each day of the

1 violation.

2 The bill establishes a bottle bill enforcement fund in the
3 state treasury under the control of DNR. The fund consists of
4 moneys deposited in the fund from civil penalties collected
5 under the bill and such moneys are appropriated to DNR for
6 purposes of administering and enforcing the beverage containers
7 control program.

8 The bill makes numerous changes throughout Code chapter 455C
9 to change instances of "dealer" to "participating dealer",
10 remove obsolete language, and stylistically and grammatically
11 update the Code chapter.

12 DIVISION II. The bill repeals the current beverage
13 containers control law (Code chapter 455C) on January 1,
14 2024, and makes corresponding changes. Upon repeal of Code
15 chapter 455C, all moneys in the bottle bill enforcement fund
16 are transferred to the alcoholic beverages division (ABD)
17 within the department of commerce for deposit in the bottle
18 bill deposit fund created in Division III of the bill. Any
19 moneys credited to the bottle bill enforcement fund on and
20 after January 1, 2024, are transferred to ABD for deposit in
21 the bottle bill deposit fund.

22 DIVISION III. The bill creates a new Code chapter 123B
23 to place beverage containers control provisions under the
24 authority of ABD. The bill further expands the definition of
25 "beverage" to include certain waters, tea or coffee drinks,
26 juices, and sports drinks, but excludes certain substances from
27 the definition. The bill excludes foil pouches and drink boxes
28 from the definition of "beverage container".

29 Under the new beverage containers control provisions, when a
30 manufacturer transfers beverage containers to a distributor,
31 the manufacturer shall pay to the distributor one-half of
32 1 cent per beverage container for each beverage container
33 transferred. When a distributor delivers beverage containers
34 to a dealer, the dealer shall pay to the distributor one-half
35 of 1 cent per beverage container for each beverage container

1 delivered. Within 14 days of providing an invoice to the
2 dealer, a distributor shall submit to the department of revenue
3 receipts indicating the number of beverage containers delivered
4 to the dealer by the distributor and payment in an amount equal
5 to 1.5 cents for each beverage container delivered to the
6 dealer. Additionally, a dealer shall submit to the department
7 of revenue on a monthly basis receipts indicating the number
8 of beverage containers sold by the dealer and the 5-cent
9 refund value collected for each beverage container sold by the
10 dealer. The department of revenue shall credit monthly to the
11 treasurer of state for deposit in the bottle bill deposit fund
12 established in the bill the payments submitted by distributors
13 and the refund value collected from dealers.

14 A consumer may only redeem the refund value by returning
15 an empty beverage container to a registered redemption center
16 facility. The redemption center shall pay refund value to
17 a consumer within 10 days of redemption. After payment of
18 the refund value by a redemption center to a consumer, the
19 redemption center shall dispose of empty beverage containers
20 by transporting the beverage containers to a recycling site.
21 After a redemption center provides proof of recycling, ABD
22 shall reimburse the redemption center the refund value paid
23 to consumers and a handling fee provided by rule, which is
24 contingent on how the redemption center provides refund value
25 to consumers. The reimbursement shall be paid from the bottle
26 bill deposit fund established in the bill. This division of
27 the bill does not require a distributor to pick up beverage
28 containers and reimburse redemption centers.

29 The bill provides penalty provisions primarily based on
30 simple misdemeanors and fraudulent practices in current Code
31 chapter 455C, but also creates the fraudulent practice of
32 intentionally submitting to ABD a request for reimbursement
33 of refund value that does not accurately reflect the number
34 of beverage containers collected and recycled by a redemption
35 center for the period that the redemption center seeks

1 reimbursement. The bill also provides for civil enforcement by
2 ABD, including the imposition of civil penalties not to exceed
3 \$2,000 for a general violation of the new beverage containers
4 control provisions or \$2,500 for each day of a violation of a
5 compliance order.

6 The bill requires ABD to establish and administer a refund
7 value payment program for the purpose of administering payments
8 of refund value and handling fees to redemption centers. The
9 bill establishes a bottle bill deposit fund in the state
10 treasury under the control of ABD. Moneys in the bottle
11 bill deposit fund may be used for purposes of issuing refund
12 value and the handling fee to a redemption center, covering
13 administrative costs to administer the program, providing
14 grants to expand redemption capacity in underserved areas,
15 providing grants to nonprofit organizations to engage in litter
16 collection in public areas, providing reimbursement for actual
17 and necessary expenses incurred by members of the bottle bill
18 advisory committee established in the bill, and replenishing
19 the bottle bill cash reserve account established within the
20 fund.

21 The bill requires ABD to establish a bottle bill advisory
22 committee that shall meet at least once each year to review
23 the status of the new beverage containers control law. The
24 committee shall submit any recommended changes to ABD and the
25 general assembly.

26 The bill authorizes the auditor of state to establish rules
27 to allow for periodic auditing of entities receiving moneys
28 from the bottle bill deposit fund.

29 This division of the bill takes effect January 1, 2024.